

EXHIBIT B

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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12 **INTERSERVE, INC., dba TECHCRUNCH,)**
a Delaware corporation, and CRUNCHPAD,)
13 **INC., a Delaware corporation,)**
14 **Plaintiffs,)**
15 **vs.)**
16 **FUSION GARAGE PTE. LTD., a Singapore)**
company,)
17 **Defendant.)**

Case No. CV-09-5812 JW (PVT)

**CRUNCHPAD INC.'S SUPPLEMENTAL
RESPONSE TO FUSION GARAGE PTE.
LTD.'S INTERROGATORIES, SET ONE,
TO CRUNCHPAD, INC.**

[Supplementing Responses to Interrogatory
Nos. 8, 9, and 10]

19
20 CrunchPad Inc. hereby responds to Fusion Garage's Pte. Ltd.'s Interrogatories, Set One, to
21 CrunchPad, Inc. as follows:

22 **GENERAL OBJECTIONS**

23 CrunchPad makes the following general objections, whether or not separately set forth in
24 response to each and every instruction, definition and interrogatory:

25 1. CrunchPad objects to each interrogatory to the extent that it seeks information that is
26 protected by the attorney-client privilege, the work product privilege and/or any other applicable
27 privilege. Such information will not be disclosed. Any inadvertent disclosure of such information
28 shall not be deemed a waiver of the attorney-client privilege, the attorney work product doctrine, or

1 Fusion Garage has or is continuing to inform the public that the JooJoo is a rebranded version of the
2 CrunchPad, however, Fusion Garage's conduct may give rise to trademark infringement liability.

3 **SPECIAL INTERROGATORY NO. 8**

4 Describe with particularity all facts supporting YOUR contention that PLAINTIFF and
5 DEFENDANT entered into a partnership or joint venture.

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 8**

7 CrunchPad objects that this interrogatory is overbroad and unduly burdensome and seeks
8 information outside the scope of permissible discovery because it seeks information that is not
9 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
10 discovery of admissible evidence. CrunchPad further objects to this interrogatory as vague and
11 ambiguous. CrunchPad also objects that this interrogatory seeks information protected by the
12 attorney-client privilege or the work product doctrine, in that it calls for counsel's contentions
13 concerning the "partnership or joint venture" entered into between Fusion Garage, Interserve, and
14 CrunchPad.

15 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 8**

16 CrunchPad objects that this interrogatory is overbroad and unduly burdensome and seeks
17 information outside the scope of permissible discovery because it seeks information that is not
18 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
19 discovery of admissible evidence. CrunchPad further objects to this interrogatory as vague and
20 ambiguous. CrunchPad also objects that this interrogatory seeks information protected by the
21 attorney-client privilege or the work product doctrine, in that it calls for counsel's contentions
22 concerning the "partnership or joint venture" entered into between Fusion Garage, Interserve, and
23 CrunchPad. CrunchPad further objects that this is a premature contention interrogatory Fusion
24 Garage propounded it as part of expedited discovery preceding the Rule 26(f) conference in this
25 case. The parties have only just begun their document productions. CrunchPad reserve the right to
26 supplement or modify this response as the case progresses.

27 Without waiving and subject to CrunchPad's general and specific objections, CrunchPad
28 responds as follows:

1 In July 2008, Interserve, Inc. announced its CrunchPad project and explained precisely how it
2 would go about designing and developing “a dead simple and dirt cheap touch screen web tablet to
3 surf the web”:

4 We’ll organize a small team of people to spec this out. First is the marketing
5 document that just outlines what the machine will do – we have a first draft of that
6 already and will post it soon. Then we’ll spec out the hardware and get people to
7 help write the customized Linux and Firefox code. Once we’ve completed the
8 design we’ll start to work with the supply chain company to get an idea on the
9 cost of the machine (the goal is \$200), and hopefully build a few prototypes.

10 A few months later Interserve, Inc. met with Fusion Garage, a Singapore software start-up. In late
11 September 2008, the Interserve, Inc. and Fusion Garage agreed to collaborate on the project.
12 Interserve, Inc. turned down several other companies that also expressed an interest in a
13 collaboration. Two weeks later, CrunchPad Inc. was incorporated as an instrument of Interserve,
14 Inc. to commercialize the product. This was a tremendous opportunity for Fusion Garage, an
15 unknown Singaporean company, to work with TechCrunch, the most influential technology blog in
16 Silicon Valley.

17 Plaintiffs worked hand-in-glove with Fusion Garage for the next 13 months. In a December
18 2008 email exchange, Plaintiffs’ Louis Monier—an industry veteran who founded AltaVista and
19 played key technology-development roles at eBay and Google—engaged in direct communications
20 with Fusion Garage to help define the user interface, technical specifications, and software details
21 for a working prototype assembled by Mr. Monier’s team. Fusion Garage commented: “This is great
22 news. Good to see the first signs of the baby :)” Plaintiffs and Fusion Garage jointly announced the
23 birth of the “baby” in January 2009. The parties worked in close collaboration, mostly out of
24 Plaintiffs’ headquarters in Atherton, where Fusion Garage’s CEO and software team worked for
25 several months. Later public and private communications confirm the close and umbilical
26 connection between the parties—each touting their shared vision, each praising the other’s efforts,
27 each clearly moving toward the same joint goal. Here is a sampling:

- 28 • TechCrunch blog post, January 19, 2009: “The software has been created by Fusion Garage, who continue to work with Louis on the feature set and user experience.”
- Fusion Garage blog post, the same day: “It’s our software running on the tablet ... We continue to work with Louis Monier on the feature set and the user experience. We ... would like to take the opportunity to thank Michael [Arrington] and Louis for giving us the opportunity to work with them on the TechCrunch Tablet.”

- 1 • Fusion Garage blog post, February 2009: “the collaboration with the Crunchpad project
2 happened as a result of meetings we had with Mike Arrington and co, subsequent to
3 [TechCrunch50]. We worked closely with Louis Monier in getting the software in shape
4 for the hardware prototype B. We continue to work with them in getting the software in
5 shape to make crunchpad an easy to use device.”
- 6 • TechCrunch blog post, April 2009: “we’ve continued to tinker with the project ... We did
7 meet with Fusion Garage today to test out the most recent prototype (B.5)? ... The
8 software stack is now entirely customized. ... This time the ID and hardware work was
9 driven by Fusion Garage out of Singapore. ... All credit should go to Fusion Garage ...
10 you need partners to actually make things happen, and the credit for what we saw today
11 goes entirely to the Fusion Garage team. Those guys are rock stars.”
- 12 • Fusion Garage tweet, May 2009: “just leaving techcrunch office, last to leave today and
13 its memorial day.”
- 14 • Fusion Garage tweet, June 2009: “CrunchPad Update, the launch prototype, we are
15 excited working on this.”
- 16 • TechCrunch blog post, June 2009: “Our partner Fusion Garage continues to drive the
17 software forward ... Our vision of the user interface and the last version of the software
18 stack ... The device boots directly into the browser.”
- 19 • Fusion Garage email, June 2009: “my suggestion is that we do a post, update new device
20 pictures and at the same time announce that we will be having a press conference in july
21 to unveil the device, do a demo etc.”

22 The CrunchPad project had the typical ups and downs of start-up ventures. And Fusion Garage, in
23 particular, was constantly looking for money. Thus, throughout the joint venture, Plaintiffs
24 advanced Fusion Garage money or paid Fusion Garage’s bills. By the end of June of 2009, the
25 parties had agreed on the basic terms of their eventual plan to merge Fusion Garage into CrunchPad
26 Inc., with Fusion Garage receiving 35% of the merged company’s stock.

27 Over the summer of 2009, the collaboration shifted to Asia. Plaintiffs’ senior technologists
28 Brian Kindle (hardware) and Nik Cubrilovic (software) spent the bulk of August in Taiwan and
Singapore working with Fusion Garage on software, design, user interface issues, and with the
parties’ jointly-selected manufacturer, Pegatron, on hardware and pricing.

There was significant friction during this period, and Plaintiffs seriously considered ending
the joint project. In response, on August 31, 2009, Fusion Garage’s CEO begged Plaintiffs to
continue the partnership and promised to fly his entire team to the Bay Area to drive the CrunchPad
to completion: “Pls do not kill the project as yet. Pls hold off a week. ... I know how to deal with
Pegatron and some of the challenges that we are currently facing. We can overcome these

1 challenges. ... If we decide to move forward and get the product launched at TC50 or separate press
2 event, then I will have my team to back me and get the product where it needs to be. ... So [a] team
3 of guys will fly with me.” Relying on these representations, Plaintiffs sponsored business visas for
4 four of the Indian nationals on the project, and starting in September of 2009, Fusion Garage and
5 Plaintiffs’ personnel worked feverishly together out of Plaintiffs’ offices to get the CrunchPad ready
6 for launch.

7 As late as November 13, 2009 all seemed well, with Fusion Garage’s CEO confirming that
8 “we shd target the [November 20] event in sf” for the CrunchPad’s public debut. But then, on
9 November 17, 2009 — in an email that Defendant concedes “came out of the blue” — Fusion
10 Garage aborted the partnership, asserting that it owned all intellectual property rights in the
11 CrunchPad product and would manufacture and market the CrunchPad product on its own.

12 **SPECIAL INTERROGATORY NO. 9**

13 IDENTIFY all DOCUMENTS supporting YOUR contention that PLAINTIFF and
14 DEFENDANT entered into a partnership or joint venture.

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 9**

16 CrunchPad objects that this interrogatory is overbroad and unduly burdensome and seeks
17 information outside the scope of permissible discovery because it seeks information that is not
18 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
19 discovery of admissible evidence. CrunchPad further objects to this interrogatory as vague and
20 ambiguous. CrunchPad also objects that this interrogatory seeks information protected by the
21 attorney-client privilege or the work product doctrine, in that it calls for counsel’s contentions
22 concerning the “partnership or joint venture” entered into between Fusion Garage, TechCrunch, and
23 CrunchPad.

24 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 9**

25 CrunchPad objects that this interrogatory is overbroad and unduly burdensome and seeks
26 information outside the scope of permissible discovery because it seeks information that is not
27 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
28 discovery of admissible evidence. CrunchPad further objects to this interrogatory as vague and

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Dated: March 22, 2010

WINSTON & STRAWN LLP

By: /s/
Andrew P. Bridges
David S. Bloch
Nicholas Short
Attorneys for Plaintiff
INTERSERVE, INC., dba
TECHCRUNCH

VERIFICATION

I, Michael Arrington, declare:

1. I am Principal of Interserve and CrunchPad, Inc., and am authorized to make this verification for Plaintiffs Interserve, Inc. and CrunchPad, Inc.

2. Prior to March 22, 2010, I reviewed CRUNCHPAD INC.'S SUPPLEMENTAL RESPONSE TO FUSION GARAGE PTE. LTD.'S INTERROGATORIES, SET ONE, TO CRUNCHPAD, INC., and know its contents. I am informed and believe that the matters set forth in the Response are true and accurate, and on that ground I allege, to the best of my knowledge and information, that the matters therein stated are true and accurate.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 22, 2010, at San Francisco, California.

/s/ - Michael Arrington
Michael Arrington

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